

RESPONSE UNDER 37 C.F.R. §1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 3700
10527/11

REMARKS

Claims 1-59, 61, 62 and 64-71 are pending in the application. Claims 1-48, 64 and 65 have been withdrawn from consideration. By this Response, claims, 49-59, 61, 62, and 66-71 have been amended and claim 72 is new.

Claims 49-59, 61, 62 and 66-71 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,335,907 to Momich in view of U.S. Patent No. 6,262,692 to Babb. Applicants traverse this rejection and respectfully assert that Momich and Babb fail to satisfy a *prima facie* case of obviousness because all of the claimed limitations are not taught or suggested by the references.

With specific regard to claim 49, neither Momich nor Babb describe a medical label system that is able to *track a location of a medical product based on an RFID* as claimed. Rather, Momich is directed to a system for prompting for the use of medication (see Momich, column 4, lines 11-12), and Babb merely describes the structure of an RFID label. Thus, the combination of Momich and Babb suggested in the outstanding Office Action would only provide enhanced prompting for the use of medication and provides no incite whatsoever into the claimed tracking of location. Applicants also point out that by failing to track the location of the medical product, Momich relies heavily upon manual control of the medical product throughout the distribution chain. Compare, for example, Momich's FIG. 22, which displays a room number 166 to *instruct* the nursing staff where to administer the medication, with Applicant's FIG. 3, which uses a location field 180 to *track* the location of the medical product in question. For at least the above reasons, claim 49 is patentable over Momich and Babb. Claims 50-59, 61, 62 and 66-71 depend from claim 49 and therefore also recite patentable subject matter.

With further regard to claim 69, Applicants point out that neither Momich nor Babb provide notification to a *sensor system uniquely associated with a patient* that conflict exists. Rather, the sensor systems described in Momich are clearly designed to be used for many patients. Compare, for example, Momich's FIG. 22, which requires a nurse prompter 162 to move from patient to patient, with Applicants' FIG. 6, which demonstrates that when integrated circuits 319 or 324 come near the sensor system

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310 located in the patient's identification bracelet 300, an alarm/alert will sound (see also, specification, page 17, lines 1-4). The outstanding Office Action appears to be relying upon ordinary skill in the art to provide the missing elements of Momich and Babb as well as the motivation to combine the missing elements with Momich and Babb. Applicants seasonably challenge the Office Action's reliance on such "ordinary skill" and request further evidence supporting this assertion. If the Office Action is taking Official Notice, Applicants request citation of references for all claimed features missing in Momich and Babb, and motivation for combining any such references with Momich and Babb. As such, Applicants request that the Examiner withdraw the instant rejection.

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CONCLUSION

Applicants thank the Examiner for the courtesies extended in the telephone interview conducted on September 16, 2003 and assert that all claims are in condition for allowance. Applicants respectfully request the Examiner to pass this case to issue at the Examiner's earliest possible convenience.

The Office is hereby authorized to charge any fees or credit any overpayments to
Deposit Account No. 11-0600.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (202) 220-4275.

Respectfully submitted,

Date: 01/26/03

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